

Dist. Ct. Judge Benjamin H. Settle
Magistrate Judge Karen L. Strombon

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BRYAN LEE STETSON,)	
Plaintiff,	)	Case No: C15-5524-BHS-KLS
v.)	
	)	MOTION FOR SUBSTITUTION OF
WASHINGTON DEPARTMENT OF	)	DEFENDANT KATHRYN L. BRUNER
CORRECTIONS, RICHARD MORGAN,	)	FOR Tobey J. Whitney,
BERNARD WARNER, and KATHRYN	)	Fed. R. Civ. P. 25(a)
L. BRUNER,	)	NOTE FOR MOTION DOCKET
	)	[Friday October 28, 2016]

Comes Now, plaintiff, Bryan Lee Stetson, pro se, Moves this Honorable Court for an order (see proposed order), to substitute (deceased) defendant Kathryn L. Bruner, for her Son, "Tobey J. Whitney" in Tacoma, WA., pursuant to Fed. R. Civ. P. 25(a) with instructions by the Court. (See Facts and Circumstances in Affidavit of Mr. Stetson) and Notice of Hearing, with Civil Complaint Under 42 U.S.C. §1983, with SUMMONS for Address to be added by Clerk attached hereto)).

RELIEF REQUESTED

Plaintiff, Mr. Stetson, respectfully Request and PRAYS this Court orders (see proposed order), substituting defendant Kathryn L. Bruner in her individual capacity for her Son, Mr. Tobey J. Whitney for the cause of action being brought against Mrs. Bruner in the above captioned case. If appropriate for the Official capacity claim to continue with the State WDOC as successor, if not then order that Mrs. Bruner be substituted for Tobey J. Whitney, in both individual and official capacity. and that any deficiency in service be corrected or waived based on the fact that Mr. Stetson can not be provided Mr. Whitney's address.

Dated this 28th day of September, 2016 at Aberdeen, Washington.

SUBMITTED BY: 
BRYAN LEE STETSON

Motion for substitution of
defendant Kathryn L. Bruner
for Tobey J. Whitney...
Case No: C15-5524-BHS-KLS

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Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520

Dist. Ct. Judge Benjamin H. Settle
Magistrate Judge Karen L. Strombom

Plaintiff's Affidavit in support of Motion for Substitution of
Defendant Kathryn L. Bruner for Tobey J. Whitney, Fed. R. Civ.
P. 25(a)

AFFIDAVIT

Pursuant to 28 U.S.C. § 1746 No Notary Required

1. That I am over the age of 18, having personal knowledge of the Facts stated herein and am competent to testify to same.

2. I, am the Plaintiff this case (Stetson v. WDOC et. al. Case No: C15-5524-BHS-KLS) and offer this Affidavit in support of My Motion for Substitution of Party defendant Bruner for her Son, Mr. Tobey J. Whitney.

3. On April 9, 2016 Defendant Kathryn L. Bruner died, this case is still active. (see Exhibit #1)

4. On June 3, 2016 Tobey J. Whitney (who is indentified on Mrs. Bruner's Death Certificate as Informant) received via U.S. Postage Per-paid "[a] Copy of the Statement Noting Death of Defendant Bruner" Mr. Whitney also waived service (Rule 25) rule 4, and did sign this waiver on June 3, 2016 for defendants and returned it to their attorney AAG Faber. (see Exhibit #2 and #3)

5. On September 8, 2016 the Honorable Strombom ordered Mr. Stetson to substitute party by Nov. 30, 2016, and to work with the defendants and their attorney without being provided Mr. Whitney's address for security reasons.

6. I am forced to rely on the department to place the true address on the extra copy that I sent to Mr. Whitney via U.S. Mail in this case said copy is Motion, Notice, Waiver and all other supporting documents.

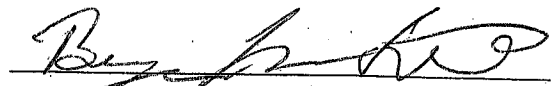
7. I will also have to rely on the defendants and/or their atty. AAG Faber to provide the Court with Mr. Whitney's Address for the Service of Summons, Notice of Hearing, original complaint, Motion Substitution, and waiver of Service.

8. I have sent a letter to AAG Faber informing her to provide the Court with Mr. Whitney's address for the Clerk to serve my Motion for Substitution within 5 business days from the date of my letter E-filed

I, Plaintiff Bryan L. Stetson am over the age of majority and am also a U.S. citizen competent to testify and herein attest under penalty of perjury that all statements contained herein is the absolute truth.

Affidavit pursuant to 28 U.S.C. § 1746 and UNITED STATES v. KARR 928 F.2d 1138 (9th Cir. 1991), sworn as true and correct under penalty of perjury has full force of and is not required to be verified by notary public.

Respectfully submitted on this 28th day of September, 2016


Signature

Bryan Lee Stetson #339734
Print Name Stafford Creek Corr. Ctr.

191 Constantine Way, H4-A-77
Institution ↓

Address
Aberdeen, WA 98520
City State Zip

EXHIBIT 1

STATE OF WASHINGTON DEPARTMENT OF HEALTH

CERTIFICATE OF DEATH

CERTIFICATE NUMBER: 2016-014993

LOCAL FILE NUMBER: 191

DATE ISSUED: 05/16/2016

FEE NUMBER: 0000000014

GIVEN NAMES: KATHRYN LOUISE
LAST NAME: BRUNERCOUNTY OF DEATH: GRAVS HARBOR
DATE OF DEATH: APRIL 09, 2016
HOUR OF DEATH: 08:00 A.M.SEX: FEMALE
AGE: 66 YEARS

SOCIAL SECURITY NUMBER: [REDACTED]

HISPANIC ORIGIN: NO, NOT HISPANIC
RACE: NATIVE AMERICAN; SHASTABIRTHDATE: [REDACTED]
BIRTHPLACE: ELMA, GRAVS HARBOR CNTY, WASHINGTONMARITAL STATUS: DIVORCED
SPOUSE: [REDACTED]OCCUPATION: CORRECTIONS OFFICER
INDUSTRY: STATE DEPT OF CORRECTIONS
EDUCATION: HIGH SCHOOL GRADUATE OR GED COMPLETED
US ARMED FORCES? NOINFORMANT: TOBEY, J. WHITNEY
RELATIONSHIP: SON
ADDRESS: [REDACTED] TACOMA, WA 98402CAUSE OF DEATH:
A. METASTATIC LUNG CANCER
INTERVAL: YEARS

B. INTERVAL:

C. INTERVAL:

D. INTERVAL:

OTHER CONDITIONS CONTRIBUTING TO DEATH:

DATE OF INJURY:
HOUR OF INJURY:
INJURY AT WORK?
PLACE OF INJURY:

LOCATION OF INJURY:

CITY, STATE, ZIP:
COUNTY:
DESCRIBE HOW INJURY OCCURRED:STATUS OF DECEDENT IF A TRANSPORTATION INJURY:
NOT APPLICABLE

ITEM(S) AMENDED: NONE

NUMBER(S): NONE
DATE(S): NONEPLACE OF DEATH: HOME
FACILITY OR ADDRESS: [REDACTED]
CITY, STATE, ZIP: MCCLEARY, WASHINGTON 98557RESIDENCE STREET: [REDACTED]
CITY, STATE, ZIP: MCCLEARY, WASHINGTON 98557
INSIDE CITY LIMITS? UNKNOWNCOUNTY: GRAVS HARBOR
TRIBAL RESERVATION: NOT APPLICABLE
LENGTH OF TIME AT RESIDENCE: UNKNOWNFATHER/PARENT: JAMES EZRA PITTMAN
MOTHER/PARENT: VIOLET LORRAINE DANNMETHOD OF DISPOSITION: CREMATION
PLACE OF DISPOSITION: MCCOMB & WAGNER CREMATORY
CITY, STATE: SHELTON, WA
DISPOSITION DATE: APRIL 12, 2016FUNERAL FACILITY: MCCOMB & WAGNER FUNERAL HOME AND CREMATORY
ADDRESS: 716 W RAILROAD AVE-PO BOX 179
CITY, STATE, ZIP: SHELTON WA 98584
FUNERAL DIRECTOR: RAND M. WAGNERMANNER OF DEATH: NATURAL
AUTOPSY: NO
AVAILABLE TO COMPLETE THE CAUSE OF DEATH? NOT APPLICABLE
DID TOBACCO USE CONTRIBUTE TO DEATH? YES
PREGNANCY STATUS, IF FEMALE: NOT APPLICABLECERTIFIER NAME: NOAH CEAZAN, MD
TITLE: PHYSICIAN
CERTIFIER
ADDRESS: 700 LILLY ROAD NE
CITY, STATE, ZIP: OLYMPIA WA 98506
DATE SIGNED: APRIL 12, 2016CASE REFERRED TO ME/CORONER? NO
FILE NUMBER: NOT APPLICABLE
ATTENDING PHYSICIAN:
NOT APPLICABLELOCAL DEPUTY REGISTRAR:
TAMI KELLOGG
DATE RECEIVED: APRIL 12, 2016

DOH 01003 (10/15)

THIS IS A CERTIFIED COPY OF THE RECORD ON FILE WITH CENTER FOR HEALTH STATISTICS. CERTIFIED COPIES MUST HAVE THE OFFICIAL SEAL.

EXHIBIT 2

DISTRICT COURT JUDGE BENJAMIN H. SETTLE
MAGISTRATE JUDGE KAREN L. STROMBOM

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BRYAN LEE STETSON,

Plaintiff,

v.

WASHINGTON DEPARTMENT OF
CORRECTIONS, BERNARD
WARNER, and KATHRYN L.
BRUNER,

Defendants.

NO. C15-5524-BHS-KLS

WAIVER OF SERVICE OF
STATEMENT NOTING DEATH
OF DEFENDANT BRUNER

I hereby certify that on 3rd day of June, 2016, I received via U.S. Postage Pre-paid
a copy of the Statement Noting Death of Defendant Bruner in the above-captioned case.

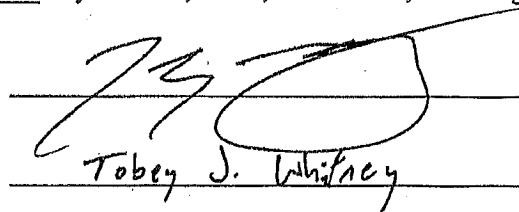
I agree to save the cost of service by not requiring that I be personally served with a
copy of the Statement Noting Death in the manner provided by Rule 4 of the Federal Rules
of Civil Procedure. I understand that I am entitled to personal service under Rule 4.
Accordingly, this document constitutes a knowing waiver of Rule 4 service for the
Statement Noting Death.

I certify under penalty of perjury that the foregoing is true and correct.

EXECUTED this 3rd day of June, 2016, in Tacoma, Washington.

(Signature)

(Printed Name)


Tobey J. Whitney

WAIVER OF SERVICE OF STATEMENT
NOTING DEATH OF DEFENDANT
BRUNER
NO. C15-5524-BHS-KLS

1

ATTORNEY GENERAL OF WASHINGTON
Corrections Division
PO Box 40116
Olympia, WA 98504-0116
(360) 586-1445

ATTACHMENT

B

EXHIBIT 3

DISTRICT COURT JUDGE BENJAMIN H. SETTLE
MAGISTRATE JUDGE KAREN L. STROMBOM

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BRYAN LEE STETSON,

Plaintiff,

v.

WASHINGTON DEPARTMENT OF
CORRECTIONS, BERNARD
WARNER, and KATHRYN L.
BRUNER,

Defendants.

NO. C15-5524-BHS-KLS

STATEMENT NOTING DEATH
OF DEFENDANT BRUNER

Counsel for Defendants notes for the record the death of Defendant Kathryn L. Bruner. Based upon counsel's information and belief, Ms. Bruner died in Grays Harbor County, Washington, on April 9, 2016.

RESPECTFULLY SUBMITTED this 19th day of April, 2016.

ROBERT W. FERGUSON
Attorney General

s/ Katherine J. Faber
KATHERINE J. FABER, WSBA #49726
Assistant Attorney General
Corrections Division
PO Box 40116
Olympia WA 98504-0116
360-586-1445
KatieF@atg.wa.gov

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Dist. Ct. Judge Benjamin H. Settle
Magistrate Judge Karen L. Stromborn

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BRYAN LEE STETSON,	)	Case No: C15-5524-BHS-KLS
Plaintiff,)	
)	
v.	)	[PROPOSED] ORDER FOR MOTION
	)	FOR SUBSTITUTION OF DEFENDANT
WASHINGTON DEPARTMENT OF	)	KATHRYN L. BRUNER FOR Tobey
CORRECTIONS, RICHARD MORGAN,	)	J. Whitney
BERNARD WARREN, and KATHRYN	)	Fed. R. Civ. P. 25(a)
L. BRUNER,	)	[Friday October 28, 2016]

ORDER:

This Court finds, Plaintiff's Motion for Substitution of Party Defendant Kathryn L. Bruner, just and in the best interest of justice,

It is hereby ORDERED, Motion for Substitution of Party Defendant Kathryn L. Bruner dated September 28, 2016 is:

[] GRANTED [] Denied

and _____

REASON: _____

Presented by: Bryan Lee Stetson plaintiff, pro se on 9/28/2016


BRYAN LEE STETSON

Dated this _____ day of _____, 2016

BY HON: _____

United States District Judge
[or USDC Magistrate Judge]

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[PROPOSED] ORDER FOR MOTION
FOR SUBSTITUTION OF DEFENDANT
KATHRYN L. BRUNER FOR Tobey J.
WHITNEY
Case No: C15-5524-BHS-KLS

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520

CERTIFICATION OF SERVICE

I, Plaintiff, Bryan Lee Stetson, pro se, hereby CERTIFY that on the 29th day of September, 2016, I gave to the law librarian, or liaison/designee at Stafford Creek Corrections Center, WDOC, the following document(s): MOTION for Substitution of Defendant Kathryn L. Bruner for Tobey J. Whitney Fed.R. Civ.P. 25(w), date 9/28/2016; with Proposed Order; and Affidavit in support ~~of~~ attached thereto, dated 9/28/2016 (-pages) to be filed with the Clerk of the Court, consistent with the General Order Number 06-16 and the filing requirements, using the CM/ECF system which will send notification of such filing to the following defendants and/or their Attorney(s): 1. Washington State Department of Corrections; 2. Richard Morgan; 3. Bernard Warner; and 4. Kathryn L. Brune. AT:

* Katie@statg.wa.gov.corolyleaf@statg.wa.gov.correauler2atg.wagov.

* and To be Served of Tobey Whitney by Clerk

I declare under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct.

EXECUTED This 29th day of September, 2016, at

Respectfully submitted

BY: Bryan Lee Stetson
BRYAN LEE STETSON

1.

Case No: C15-5524-BHS-KLS

Bryan Lee Stetson, #339734
Stafford Creek Corr. Ctr.
191 Constantine Way, H4-A-77
Aberdeen, WA 98520
(Plaintiff, pro se)